

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

PATRICIA A. BERLO,)
vs.)
Plaintiff,)
TRISHA A. MISAK, Judge,)
Defendant.)
)
) Case No. CIV-09-916-M
)

ORDER

Plaintiff, appearing *pro se*, filed a Complaint against defendant Judge Trisha A. Misak. Through her complaint, plaintiff is requesting this Court to review defendant's orders and failure to issue orders in a state court proceeding.

"Federal courts have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party, and thus a court may *sua sponte* raise the question of whether there is subject matter jurisdiction at any stage in the litigation." *Image Software, Inc. v. Reynolds and Reynolds Co.*, 459 F.3d 1044, 1048 (10th Cir. 2006) (internal quotations and citation omitted). Further, "[t]he *Rooker-Feldman* doctrine¹ establishes, as a matter of subject-matter jurisdiction, that only the United States Supreme Court has appellate authority to review a state-court decision." *Merrill Lynch Bus. Fin. Servs., Inc. v. Nudell*, 363 F.3d 1072, 1074-75 (10th Cir. 2004). Thus, in applying the *Rooker-Feldman* doctrine, a court focuses on whether it, if it adjudicated plaintiff's claims, would effectively act as an appellate court reviewing the state court disposition. *Id.*

¹*Rooker v. Fid. Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

Having carefully reviewed plaintiff's Complaint, the Court finds that under the *Rooker-Feldman* doctrine, this Court does not have subject matter jurisdiction in this case. Specifically, the Court finds that if it adjudicated plaintiff's claims, it would effectively be acting as an appellate court reviewing defendant Judge Trisha A. Misak's decisions. Accordingly, the Court finds that this action should be dismissed for lack of subject matter jurisdiction.

Therefore, the Court DISMISSES the instant action for lack of subject matter jurisdiction.

IT IS SO ORDERED this 7th day of October, 2009.



VICKI MILES-LAGRANGE
CHIEF UNITED STATES DISTRICT JUDGE